

22 DEC 2005



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In re Application of	:	
WITELAW et al	:	
Application No.: 10/522,356	:	
PCT No.: PCT/GB03/03192	:	DECISION
Int. Filing Date: 25 July 2003	:	
Priority Date: 26 July 2002	:	
Attorney's Docket No.: 102286.155US1	:	
For: MULTI-REPORTER GENE MODEL FOR	:	
TOXICOLOGICAL SCREENING	:	

This decision is in response to the applicant's response file 24 October 2005 in response to the Notification of Missing Requirements mailed on 23 August 2005.

BACKGROUND

On 25 July 2003, applicant filed international application PCT/GB03/03192, which claimed priority of an earlier British application filed 26 July 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 05 February 2004. A Demand for international preliminary examination, in which the United States was elected, was filed on 26 February 2004. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 26 January 2005.

On 26 January 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1); and an application data sheet.

On 23 August 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905). The notification indicated that the legal documentation is needed for heir Helen Clark for the deceased inventor Anthony John Clark. The notification also indicated that there were problems with the submission of the sequence listing.

On 24 October 2005 applicant filed a copy of a declaration, a sequence listing, a diskette containing the sequence listing in computer readable form, a statement concerning the sequence listing and an amendment.

DISCUSSION

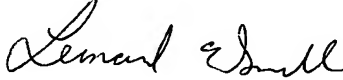
A review of the file reveals that applicants executed a declaration under PCT Rule 4.17(iv) in August 2003 and filed the declaration during the international phase of the application pursuant to 37 PCT Rule 26~~ter~~.1. Because the declaration under PCT Rule 4.17(iv) is in compliance with the US Rule 1.497(a)¹ the declaration is acceptable for entry into the national stage. When an inventor dies, it is not necessary for the legal representative to intervene in the prosecution of the application. See MPEP 409.01(e) and (f). Therefore, since Anthony Clark executed the declaration prior to his death, it is not necessary for Helen Clark to sign the declaration.

It is noted that the Application Data Sheet filed with on the 26 January 2005 does not list Anthony Clark and Helen Clark in the manner set out in the *Patent Application Data Sheet, Format Guide for Submitting Bibliographic Data for Patent Applications*. See Example 4 on pages 20 and 21 of the *Guide*. A copy may be found at the USPTO's web site. (<http://www.uspto.gov/web/offices/pac/dapp/sir/doc/patappde.html>) Applicant may wish to file a corrected Application Data Sheet.

CONCLUSION

The application papers are accorded a 35 U.S.C. 102(c)(1), (c)(2) and (c)(4) and 371 date of 26 January 2005.

The application is being returned to the National Stage Processing Division for further processing.

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PCT Legal Examiner 
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¹ (a) When an applicant of an international application desires to enter the national stage under 35 U.S.C. 371 pursuant to § 1.495, and a declaration in compliance with this section has not been previously submitted in the international application under PCT Rule 4.17(iv) within the time limits provided for in PCT Rule 26 ter.1, he or she must file an oath or declaration that:

- (1) Is executed in accordance with either §§ 1.66 or 1.68;
- (2) Identifies the specification to which it is directed;
- (3) Identifies each inventor and the country of citizenship of each inventor; and
- (4) States that the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought.